



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 24, 1998

Ms. Heather Silver
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
Municipal Building
Dallas, Texas 75201

OR98-1035

Dear Ms. Silver:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 115038.

The City of Dallas (the "city") received an open records request from an attorney acting on behalf of a former city police officer for the officer's personnel file. You contend the requested documents may be withheld from the public pursuant section 552.103 of the Government Code because the officer has filed a lawsuit against the city.

The Open Records Act makes all information collected, assembled, or maintained by a governmental body in connection with the transaction of official business public information unless it is within a specified exception. Gov't Code §§ 552.021, .101-.130. The burden is on the governmental body to establish that an exception applies. *See* Attorney General Opinions H- 436, H-249 (1974), H-90 (1973); Open Records Decision Nos. 150 (1977), 125 (1976), 91 (1975).

To secure the protection of section 552.103, a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588 (1991) at 1. Although you state that litigation involving the city is currently on-going, you have not explained how the requested records relate to that litigation. You have made no attempt to outline the factual background of the case, the legal issues involved, or how the requested records pertain to those facts and issues. We therefore conclude that you have not met your burden of establishing the applicability of section 552.103 to the records at issue. The city therefore must release the requested records in their entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Loretta DeHay". The signature is written in a cursive, flowing style.

Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/RWP/rho

Ref.: ID# 115038

Enclosures: Submitted documents

cc: Mr. Michael L. Cronig
Attorney at Law
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(w/o enclosures)